STATE OF ARIZONA

Joint Legislative Budget Committee

STATE SENATE

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HOUSE OF REPRESENTATIVES

JOINT LEGISLATIVE BUDGET COMMITTEE
Thursday, September 19, 2002
9:30 a.m.
Senate Appropriations Room 109

AGENDA

- Call to Order

- Approval of Minutes of August 22, 2002.

- DIRECTOR'S REPORT (if necessary).

- EXECUTIVE SESSION
  - A. Arizona Department of Administration, Risk Management Services - Consideration of Proposed Settlements under Rule 14.
  - B. Department of Revenue - Update on Litigation.

1. BOARD OF TECHNICAL REGISTRATION - Consider Approval of Transfer of Appropriations.

2. AHCCCS - Review of Capitation Rate Changes.

3. DEPARTMENT OF CORRECTIONS - Review of Private Prison Request for Proposal.

4. REPORT ON RECENT AGENCY SUBMISSIONS
   - A. Office of Administrative Hearings - Report on Interagency Service Agreements.
   - B. Attorney General - Report on Model Court.
   - C. Attorney General - Report on Legal Expenses for Alternative Fuels.
   - D. Department of Corrections - Report on Inmate Utility Fees.
   - E. Department of Economic Security - Report on Procurement Rules for the Division of Developmental Disabilities.
   - F. Department of Emergency and Military Affairs - Report on Camp Navajo Fund.
   - G. Department of Environmental Quality - Report on Water Quality Assurance Revolving Fund for 4th Quarter for FY 2002.
   - H. Department of Juvenile Corrections - Report on Restitution Fund.

(Continued)

I. Department of Revenue - Report on Ladewig Expenditure Plan.
J. Arizona Department of Transportation - Report on Highway Maintenance Levels of Service.
K. Arizona Department of Transportation - Report on Tree Clearing Program.

The Chairman reserves the right to set the order of the agenda.
09/12/02

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STATE OF ARIZONA

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STATE SENATE

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MINUTES OF THE MEETING

JOINT LEGISLATIVE BUDGET COMMITTEE

August 22, 2002

The Chairman called the meeting to order at 9:35 a.m., Thursday, August 22, 2002, in Senate Appropriations Room 109. The following were present:

Members:	Senator Solomon, Chairman	Representative Knaperek, Vice-Chairman
	Senator Bee	Representative Burton Cahill
	Senator Bennett	Representative Gray
	Senator Brown	Representative Pearce
	Senator Cirillo	Representative Pickens
	Senator Rios	
Absent:	Senator Arzberger	Representative Allen
	Senator Bundgaard	Representative May
		Representative Weason
Staff:	Richard Stavneak, Director	Cheryl Kestner, Secretary
	Jake Corey	Gina Guarascio
	Stefan Shepherd	Paul Shannon
	Jill Young	Tony Vidale
Others:	Cynthia Odom	Attorney General's Office
	Joy Hicks	House of Representatives
	Debbie Johnston	Senate
	Michael Emerson	Exec. Director, Arizona Learning Systems
	Gary Passer	President, Northland Pioneer College
	Linda Thor	President, Rio Salado College
	Judy Bernas	Director, Government Relations, AHEC
	Edward Boot	Interim Executive Director, School Facilities Brd.
	Landis Aden	Legislative Liaison
	Red Thomas	Private Citizen
	Gary Christensens	Private Citizen
	Kenneth Rineer	Firearms Action Committee, Tucson
	Bruce Groll	Private Citizen
	Cathy Eden	Director, Department of Health Services

APPROVAL OF MINUTES

<u>Senator Solomon moved</u> *that the minutes of June 20, 2002 and July 17, 2002 be approved*. The motion carried.

EXECUTIVE SESSION

<u>Senator Bee moved</u> *that the Committee go into Executive Session.* The motion carried.

At 9:37 a.m. the Joint Legislative Budget Committee went into Executive Session.

Representative Knaperek moved that the Committee reconvene into open session. The motion carried.

At 10:00 a.m. the Committee reconvened into open session.

Representative Knaperek moved that the Committee approve the recommended settlement proposal by the Attorney General's Office in the case of Repasch et al v. state. The motion carried.

ARIZONA DEPARTMENT OF ADMINISTRATION – Review of Retiree Accumulated Sick Leave.

Mr. Paul Shannon, JLBC Staff, stated that the Arizona Department of Administration (ADOA) requests review of the Retiree Accumulated Sick Leave rate as required by statute. Currently the rate is 0.4% of the total benefit-eligible payroll. The department has not requested any change to the rate. The JLBC Staff recommends a favorable review of this item which will not need further review until ADOA proposes a change to the rate.

Senator Cirillo stated that he would like the Committee to look at this program and determine if they should continue it. He said that most companies do not have this kind of program. You are usually allotted a certain number of sick days a year and if they are not used they do not carry over.

Senator Pearce shared his concern that this is a difficult issue because there should be sick leave for people who really need it, and they should not be penalized by people who abuse the program.

Senator Bennett asked how many days a person can accrue. Mr. Shannon responded that sick leave accrues at 8 hours per month and can be carried over each year.

Senator Solomon asked if there was a ceiling on the amount collected if a person retires. Mr. Shannon said the highest payoff would be $30,000 and that would be over a period of 3 years.

Representative Knaperek moved that the Committee give a favorable review of the Arizona Department of Administration's Retiree Accumulated Sick Leave rate of 0.4% of the total benefit-eligible payroll. The motion carried.

COMMUNITY COLLEGES - Review of the Operations and Business Plan for Arizona Learning Systems (ALS).

Ms. Jill Young, JLBC Staff, gave a brief history of ALS, indicating that ALS was conceived in 1995-96 and funded in 1997-98 to create a consortium for distance learning across district boundaries between community colleges through ITV, Internet and other technology. The system, due to some delays, did not start classes until spring 2001 and enrollment has been quite low. This was attributed to a lack of student awareness and insufficient marketing, among other reasons. Due to the low enrollment and other issues the system has not been sufficient to run on its own. The State Board submitted a report to JLBC in April of 2002 stating that ALS could not continue as it had been. In response to this a footnote was added in the General Appropriation Act stating that ALS shall develop an operations and business plan for continued statewide use before July 31 for review by JLBC. If this did not happen the system would terminate as of August 2002.

As of this date, JLBC has not received a plan from ALS. In light of this, ALS will terminate at the end of August 2002. It is then the responsibility of JLBC to determine what to do with the state-funded assets. The state-funded assets include video equipment and telecommunications equipment. The original purchase price of those items total approximately $1.1 million. The JLBC Staff has provided some options available for the Committee to consider: 1) is to allow community colleges to retain the equipment upon termination of ALS, 2) sell all of the equipment upon termination of ALS. JLBC Staff does not have a precise estimate of current value of these assets, but the sale could possibly generate $300,000; and 3) transfer state-funded assets of ALS to an alternate management group for statewide use. The JLBC has received a proposal by Arizona Area Health Education Center (AHEC) to take over the ALS system and use it collaboratively with the community colleges and universities to provide health education.

Senator Solomon asked what ALS cost and what AHEC's contribution would be and whether they have the funding in place. Ms. Young responded that the Legislature appropriated $1.1 million in 1997, and $2.75 million in 1998 for a total of approximately $3.8 million. Ms. Young said that it is her understanding that AHEC would use current revenue sources to run the system until they develop a partnership which would bring in funds to make the system self-sufficient.

Representative Knaperek asked if the $3.8 million was for hardware costs or for operations.

Ms. Young said that hardware costs were about $1.1 million, the actual costs for labor of implementing the system. The funds for operations up until now have been nonlapsing, currently $500,000 per year to keep it up to date.

Representative Knaperek asked who funds AHEC. Ms. Young said that AHEC receives its primary funding currently from Proposition 204. They have had various funding sources in the past. One of the concerns is that Proposition 204 for the health education programs will not be available past 2003. This has not been determined yet.

Senator Solomon asked if Telemedicine would be interested in using this kind of a network. Ms. Young responded that in her discussions with representatives from the University of Arizona Health Sciences Center that possibility has come up.

Senator Cirillo said that the University of Arizona Health Sciences Center has a very successful telecommunication system and he would rather see it appended to that than to something else. In addition, he felt there needs to be some kind of an audit as to how the $3.8 million was spent. Ms. Young responded that JLBC Staff only had a very general outline of the expenditures for ALS.

Senator Bennett asked that if the Committee chose option 1 would it require an on-going expenditure of $500,000 for annual operations or could we simply allow them to take over the equipment. Ms. Young said that option would not require on-going funds from the General Fund. The footnote states that upon disbursement of the state-funded assets, however the Committee decides, that any remaining appropriation from the original 1998 appropriation would revert to the General Fund. If the equipment items were given to the community college district they would put them to their individual use. The network would not exist, merely the equipment at the destination.

<u>Mr. Mike Emerson, Executive Director of ALS</u>, responded to an earlier question by Senator Cirillo regarding expenditures. Mr. Emerson said the expenditure of funds was basically divided in two places. The original $1.1 million contributed to the network for curriculum development, faculty development, and associated equipment. The $2.7 million from the second appropriation for ALS went to fund the telecommunications network. About $1.1 million of that went to equipment, a portion went to staffing and the remainder went to the telecommunication lease lines. Also, for outsource to manage and monitor the network.

Senator Cirillo asked when ALS was in the formative stages if there was any contact with the Telemedicine Program and the University of Arizona, who already had some network established and which has grown dramatically since then. Mr. Emerson said that at the conceptual stages they did not have contact with them but have over the last couple of years. Regarding collaboration, one of the requirements was that the network be designed to meet certain specifications. One is that it be priced at a distance incentive rate, meaning anybody could connect at a flat rate.

Representative Gray asked what the cost was for the leased lines and if ALS had contacted NAU since they do a great deal of interactive learning with multiple classes. Mr. Emerson said the cost for the 12 lines is $30,000 per month. He said they had contacted NAU in late 1998 and early 1999 and they had submitted a proposal to ALS to become the carrier of technology. That proposal was reviewed by the ALS's Presidents Council which is made up of representatives of the community colleges districts and by the Community College State Board. There are a number of technical problems with doing this but primarily it did not meet the requirements of the JLBC footnote. It did not allow ALS either to connect at a distance incentive rate or other possible entities such as K-12 and libraries.

Representative Gray asked why the curriculum was so different that it had to be developed, rather than what was already taught in the classroom. Essentially, why was the money spent on curriculum instead of getting students into the classroom. Mr. Emerson said the primary curriculum development was done early in 1997. ALS runs 2 types of classes. One is the interactive video system and not as much curriculum development was done. While it is different, it is not that difficult to go from a standard classroom to interactive video classroom. The money was spent in 1997 to respond to an initial allotment of internet-based courses. ALS did not fund any further internet-based courses after that time. ALS did retain a curriculum specialist to put together the ALS course schedule to make sure it met various standards and to work on the student services aspect.

Representative Gray asked what courses were offered to the 113 students. Mr. Emerson said that approximately 55 different types of courses were offered. About 40 of those courses were internet-based, and 15 were interactive video courses.

Representative Knaperek said it appears that ALS was a failed experiment and asked Mr. Emerson to elaborate on the reasons. Mr. Emerson said that there were a number of reasons. The primary reason was, when developed, the ALS was to be an overlay to the community college system. ALS would not run a centralized registration system, and they severely underestimated the amount of time to gather 10 community college districts together on the academic and student services side. The second issue was student awareness and marketing. Of the 113 students registered about 100 came out of 2 districts. On a statewide perspective ALS had a choice early on as to how they wanted to approach marketing. The decision was made to not run these classes as an ALS class but to run it as a local community college class. ALS did not run centralized marketing as there were no funds to cover that.

Representative Knaperek said that it appears one of the reasons for failure was the lack of cooperation between individual community colleges. For whatever reason, there is $3.8 million that has been spent and is useless. She asked what could have been done differently to make the program a success.

Mr. Emerson said that cooperation within the system was more problematic than was originally anticipated. The level of cooperation varied by district. There should have been more central staff and a centralized registration process. Also, attention to available courses beforehand, course enrollment tended to clump in certain areas. By the time ALS had brought a curriculum specialist on board, the spring 2002 schedule was already set. To go back and do it again ALS would need more centralization, more understanding towards the difficulty of cooperation, and also the need to take a step back in terms of telecommunication needs in what was developed from a technology standpoint.

Dr. Gary Passer, President, Northland Pioneer College, said he was representing the Arizona Community College Association, which is made up of the 10 community college districts. He said ALS was not entirely a failure, partly because the way the equipment could be utilized by the community colleges. The system was developed and the network was put in place, which connected 11 classrooms in 9 community college districts statewide. If it turned out that the equipment in those classrooms would be returned and the system dissolved, ALS would be dissolved but the equipment would be utilized locally in the community college districts. The equipment would become integrated into local networks or districted networks that in many cases would be quite large. Prior to ALS there were 4 districts out of the 10 that did have interactive video systems.

Senator Solomon asked what would be the difference now in marketing the system. Dr. Passer said the difference is that 4 of the districts had utilized interactive video systems within the district for years. It is expensive to run interactive video systems, much more so than having 30 students in a classroom. He said the reason for the failure was that they did not find their market. They should have had a different array of services addressing different market needs statewide.

Senator Solomon asked if the community colleges that are interested in taking over the equipment have the necessary operating capital. Dr. Passer said he could not speak for all districts but that they do at Northland Pioneer Community College.

Senator Bennett asked what entity requested the establishment of ALS.

Mr. Bruce Groll stated that the request came from community college districts as a united group, with a proposal that was reviewed by Staff and the Legislature. Initially it was under the auspices of the State Board for the first $1.1 million to develop the proposal for the system. After that a committee council was developed of community college presidents, and the management of ALS was delegated for the most part by the board to the ALS governing council.

Ms. Judy Bernas, University of Arizona, Health Sciences Center, stated that the Health Sciences Center would support the Committee's recommendation but they would like to do more investigation to make sure it is something they could put together.

Representative Knaperek moved that the Committee defer action on the disbursement of ALS state-funded assets until receiving additional information. The Committee requests a report within 60 days (Monday, October 21, 2002) from AHEC on a financial plan for the network to show it will be self-supporting. The Committee requests a written response from the community colleges regarding the AHEC proposal within the same 60 days. If the community colleges do not appear to be interested in collaboration with AHEC, the Committee requests AHEC to report within the same 60 days on alternative uses of the network. ALS staff is retained during the transition period to coordinate the termination of ALS and disbursement of state-funded assets and that any remaining funds be reverted to the General Fund. JLBC Staff will contact GITA regarding alternate uses of the ALS network.

Senator Brown amended the motion to include: Individual community college districts may present a business or use plan for the equipment within the district within the same 60 days. The motion as amended carried.

SCHOOL FACILITIES BOARD (SFB) - Consider Approval of Index for Constructing New School Facilities.

Mr. Jake Corey, JLBC Staff, said that the SFB requests the Committee to approve an increase of 4.8% in the cost per square foot factor used in the building renewal and new construction financing formulas. The 4.8% figure is based on the Marshall Valuation Service (MVS) construction cost index for July 2002. The adjustment would take place in FY 2003 for new construction and would be scheduled to occur in FY 2004 for building renewal. However, in the last legislative session the building renewal formula was suspended for FY 2004. The Committee has at least 2 options. The first would be to approve the 4.8% increase. This would cost about $9.4 million in FY 2004. A second option would be to approve a 1.0% increase, which is equal to the Gross Domestic Product (GDP) deflator for FY 2002. This option would cost $2.0 million in FY 2004. A third option would be to forego an inflation index for the next year. If the Committee decides to do that, the Legislature may wish to notwithstand the statutory indexing requirement in session law.

Senator Solomon noted that the Marshall Index was adopted when the economy was in much better shape. She questioned whether the same level of inflation with regards to the cost of construction would be the same now as it was a year ago. Mr. Corey said that is unknown at this point.

Senator Solomon asked what the increases have been. Mr. Corey said that the 3.5% increase in 2000 was later adjusted to 4.6% because of updated information from MVS. In 2001, the increase was 0.6%.

Representative Knaperek said that she is uncomfortable with another increase to the SFB and asked what would happen if the increase was not approved.

Senator Cirillo said before he would agree to an increase he would want to see what the demographic data is showing. There is some indication that pressure on the schools from new students may be going down a little.

Representative Pickens asked when bids go out if that means schools can spend up to a certain amount of money or is it bid at that amount of money. Mr. Corey said that it would only affect the amount a school is approved for according to the formula.

<u>Mr. Ed Boot, Interim Executive Director, SFB</u>, said the SFB recommended the 4.8% increase as a result of the Marshall & Swift Index.

Senator Bennett asked Mr. Boot if he could estimate how many projects come in at or below those formulas. Mr. Boot said that traditionally 1/3 of the schools come in above the formula and 2/3 come in at or below the formula. The larger the school the greater the opportunity to come in under the formula. In most schools over 50,000 sq. ft. money is reverted to the school district.

Representative Knaperek asked how much money the districts kept as a result of money left from schools being built.

Mr. Boot said the SFB required a district, up until the new legislation, to set aside 3-5% of the award money for contingency items or unknown conditions, to protect the state in case they found something when they started. That money always reverted back to the districts. The districts probably retained between $2 million and $4 million a year spread across 30-35 schools.

Senator Solomon asked Mr. Boot if he had confidence in prospective inflation forecasting for construction. Mr. Boot said that he had great confidence in Marshall & Swift's ability to tell them what has happened. He said he is also confident that they are finding inflation running at a higher rate than 4.8% in Phoenix and in a much higher rate in Tucson and the rural areas. He believes this number is vastly understated for the rural areas and Tucson. In Tucson there are several major projects of a large size and the contractor base in Tucson is very small, particularly the subcontractor base. As a result of that, they believe 4.8% is on the low side

Senator Bennett asked to what degree are they creating some of the inflation based on the demands being placed on a limited market. Mr. Boot said that within the deficiencies program, they are creating a good deal of inflation, especially in the rural remote areas. In Tucson he feels it is being caused by the airport and the university and a large project going on in the city.

<u>Representative Knaperek moved</u> that the Committee approve a 0.6% increase in the cost-per-square-foot factor used in the building renewal and new construction financing formulas.

Senator Bennett said that based on the testimony by Mr. Boot, since on average the schools are coming in at or below the formula, he believes that speaks for option 3. Keep the formula where it is right now and then in the next legislative session they would need to notwithstand the requirement that was put in place years ago. Another important point in that same testimony is that other elements of the Students FIRST law require that those projects that have concerns or certain circumstances do get a little bit extra. Even with that, the overall project costs are coming in below and therefore he believes the third option is more appropriate.

Mr. Richard Stavneak, Director, JLBC Staff, said that because the statute seems to imply that there be an inflation index, if the Committee were to say there should be none, that would be done with the understanding that there is going to be a follow-up action by the full body to notwithstand the statute because that is not an authority of the Committee itself.

Senator Bennett questioned setting the inflation rate at 0%.

Mr. Stavneak said that is also the Committee's option as long as they are comfortable with the basis of defending 0%.

Representative Pickens stated that she was not in favor of this option.

Senator Cirillo asked if this item had to be approved at this meeting or was it something they could delay.

Mr. Stavneak said that the requirement in statute is that it be done annually and it was previously done last summer.

Senator Cirillo made a substitute motion that the Committee table the action on this item until the October JLBC meeting when they will have the benefit of the October 1 demographic study and number of students. The substitute motion carried.

DEPARTMENT OF PUBLIC SAFETY – Report on Firearms Center.

Mr. Tony Vidale, JLBC Staff, said this item is to provide the Committee with background information regarding the transfer of responsibilities for firearm clearance background checks from the Department of Public Safety (DPS) to the Federal Bureau of Investigation (FBI). This item is for information only and no Committee action is required.

During the 2nd Regular Session the Legislature transferred the responsibility from the Firearms Clearance Center to the FBI and created a savings of about $600,000 which is effective August 22, 2002. The FBI is working to resolve an information integration problem with the states. Twenty-four states now provide the FBI with information on orders of protection.

Representative Knaperek said it was brought to her attention that this is a potential problem and felt the Committee needs to hear what the issues are that they were not aware of when this was passed during the budget.

Mr. Landis Aden, Arizona State Rifle and Pistol Association, spoke in favor of the state retaining responsibility for firearms checks.

In response to Representative Knaperek's question, Mr. Aden said enforcement of ineligible purchasers of guns, who purchased a gun because of the check going beyond the 3-day limit, is rarely done. Less than 1% of cases are ever prosecuted.

Mr. Red Thomas, private citizen, spoke in favor the state retaining responsibility for firearms checks. He would like to see a change in the firearms checks system; there is no place where a private citizen can call to find out if a gun is stolen. The Background Check Center should allow citizens to call with a serial number to see if it has been reported stolen.

Senator Cirillo asked which system would have been better, state or federal, to prevent a 9/11 hijacker from getting a weapon. Mr. Thomas responded that the state system would have been better. In Arizona you would be looking at 1/50 of the amount of information as you would in the federal database system.

Representative Burton Cahill asked how many states have a state system, and whether or not the individual requesting to buy a gun pays for the background checks. Also, of the states that do have a state system, are they able to link into the federal database so data can be shared.

Senator Solomon said she has seen technology that is very good, but expensive and the state has not been able to afford it.

Mr. Vidale said that the technology is a major problem. If a state does the checks, they not only look through their own database but also the federal database. Information that is not specific to Arizona would be found in the federal database.

Senator Cirillo said they should be looking at consistency. The state already does background checks on people going into nursing or teaching, and if they are paying for it then gun purchasers should also pay for background checks.

Senator Solomon said that Mr. Aden made a point about a constitutional right to carry arms and it is believed that someone should not have to pay for something that is a constitutional right.

Representative Knaperek asked if the Department of Public Safety has a point person between the citizens and the FBI.

Mr. Gary Christensens, a private citizen, opposed the transfer to the FBI and pointed out the revenues that gun sales bring in. He also said the more things we can do at the state level the more things we can do to control our own destiny.

Mr. Kenneth Rineer, President of the Firearms Action Committee, Tucson, opposed the transfer to the FBI. Mr. Rineer said regarding fees, that according to the audit report $600,000 is coming out of the Criminal Justice Enhancement Fund (CJEF). Which means the criminals are paying for the cost of background checks. Mr. Rineer handed out a fact sheet on Governor Bill Owens of Colorado and what they are doing with state-controlled gun checks.

Mr. Vidale said as a point of clarification on the funding issue, the Firearms Center was supported by CJEF monies. Their General Fund was reduced by a like amount and replaced with CJEF monies.

Lt. Jack Lane, Government Liaison, Department of Public Safety stated that regarding a contact for citizens, they currently do not have a point person. The FBI has have a liaison that they themselves go through. They are, however, maintaining 3 personnel that will need to act as criminal history research analysts to research those cases that do not list a final disposition in the state. They will be processing inquiries not only from the FBI but from other states that have a point of contact that contact DPS on a regular basis.

DEPARTMENT OF HEALTH SERVICES

A. Review of Behavioral Health Capitation Rate Changes and Consider Approval of Requested Transfer of Appropriations.

Ms. Gina Guarascio, JLBC Staff, said this item is a request by the Department of Health Services to raise the Title XIX capitation rate for the Children's Behavioral Health (CBH) and General Mental Health/Substance Abuse (GMH/SA) Title XIX rates. These rate changes may affect the CBH Title XIX and GMH/SA Title XIX Special Line Items, as well as the Proposition 204 Line Item. At the July JLBC meeting the Committee approved a rate decrease for the SMI population. However, because savings were not as great as anticipated the SMI rate change will require an additional $7 million in state match. The Committee also deferred a rate increase for the 2 populations being considered at this meeting until more information became available.

At the request of JLBC Staff, DHS has submitted a plan to fund the capitation rate increase. DHS proposes to use $1 million appropriated for Non-Title XIX services for Title XIX eligible children, as well as $3 million from the SMI Non-Title XIX line item in order to fund the increase in capitation rates. In order to implement the DHS plan, the Committee would need to approve a transfer between Special Line Items.

Senator Solomon said that she and Representative Knaperek had meetings with representatives from DES, DHS and JLBC Staff because there is great concern assuring the services that they want to provide to children. There may be a time when DES may have to come before the Committee to request a supplemental for their Children Services Line Item but at this point in time, in order to keep budgeting clean and in line, Representative Knaperek and Senator Solomon have a recommendation that they are pleased with.

Representative Knaperek said that what she has found is that agencies are working together for the good of children. She wanted to thank the Directors of both agencies and staff for working on this issue.

Representative Knaperek moved the JLBC Staff recommendation as outlined on page 2 of the agenda book. DES would provide DHS with $2.6 million from its existing $13 million behavioral health budget to fund the capitation rate increase for children. DHS would find the resources from its existing budget (other than Non-Title XIX services) to cover the

$1.5 million cost of the General Mental Health rate change. DES would provide JLBC Staff with bimonthly updates of residential placement clients and expenditures in the Children Services program. The motion carried.

B. Consider Approval of Transfer of Appropriations for the Seriously Emotionally Handicapped Program.

Ms. Guarascio said that this item is a proposed transfer of appropriations from the Department of Health Services. During the preparation of FY 2003 budget DHS, like all agencies, received a sizable lump sum reduction in their budget, which amounted to about $4.6 million. That reduction was calculated into the Operating Lump Sum for each of the cost centers except the Arizona State Hospital.

DHS has determined the best way to take the cut was to partially federalize, through the Title XIX program, a portion of those services that had been paid through the Seriously Emotionally Handicapped (SEH) Line Item in Behavioral Health. That Special Line Item was funded in the General Appropriation Act at $4.2 million. Services for children that do not qualify for the Title XIX would be covered using Non-Title XIX Children's Behavioral Health monies.

The Appropriations Chairmen recognize the effort DHS has made to maximize state resources by federalizing funding for this population. However, the Chairmen also have voiced concerns about using Non-Title XIX funds to pay for the services that, for a variety of reasons, are unable to be paid for through the Title XIX program.

Senator Bennett asked how many children are served by this line item. Ms. Guarascio said that during the course of the last school year approximately 126 kids were served. At this point, however, the number is approximately 40.

<u>Representative Knaperek moved</u> *the Committee approve the alternate recommendation by JLBC Staff as outlined on page 2 of the agenda book. Transfer $3,562,300 from the SEH Line Item to the BHS operating lump sum budget. The sum of $638,000 would remain the SEH Line Item. Consistent with on-going legislative intent, advise DHS that the $500,000 in the Children's Behavioral Health Line Item be expended for Non-Title XIX services rather than be used as the primary funding source of the SEH program. This alternative would mean that DHS would need to absorb $500,000 in its operating budget, rather than taking the reduction in Non-Title XIX service dollars. Recommend that DHS report back to the Committee by September 25 on how this transfer will be further allocated to the other DHS cost centers. Recommend that DHS report to the Committee by November 1 on the status of placement for this population. This report should include information about the number of children referred to Regional Behavioral Health Authorities (RBHAs) for placement, the number of children that become Title XIX eligible, the number that are not Title XIX eligible, and expenditures as of October 31, as well as a projection of expenditures for the remainder of FY 2003.* The motion carried

STATE PARKS BOARD - Review of the State Parks Enhancement Fund Acquisitions and Development Fund Expenditure.

Mr. Tim Sweeney, JLBC Staff said this item is to review the expenditure of $450,000 from the Acquisitions and Development portion of the State Parks Enhancement Fund. Parks is planning on spending this money to hire 12 full-time Parks staff and several seasonal employees. As of August 9, all 7 of the parks closed in early July have been reopened at normal business hours and JLBC Staff recommends a favorable review of this request.

Representative Knaperek asked how much money has been generated from the increased fees.

<u>Mark Siegwarth, Arizona State Parks Board</u>, stated that the fees went into effect on July 1. Because of State Parks closures, visitation was down about 17% so actual fees were only about 4.5% ahead of last year. Approximately $900,000 has been generated.

<u>Representative Knaperek moved</u> *the Committee give a favorable review to the State Parks Board expenditure of $450,000 from the Acquisitions and Development portion of State Parks Enhancement Fund.* The motion carried.

REPORT ON RECENT AGENCY SUBMISSIONS

These are the recent reports received in the last month and no Committee action was required.

A. Arizona Department of Administration – Semi-Annual Report on Health Insurance Performance Standards.
B. AHCCCS – Report on the Implementation of the Special Provider Rate Increase.

C. Attorney General – Report on Legal Expenses for Alternative Fuels.
D. Attorney General – Attorney General – Report on Incarceration Costs Offset by Monetary Judgments.
E. Department of Economic Security – Bimonthly Report on Arizona Works.
F. Department of Economic Security – Bimonthly Report on Children Services Program.
G. Department of Economic Security – Report on Placements into State-Owned ICF-MR or the Arizona Training Program at Coolidge Campus.
H. Department of Emergency and Military Affairs – Report on Declared Emergencies.
I. Governor's Office for Excellence in Government – Report on Privatizing the Arizona Pioneers' Home.
J. Department of Health Services – Report on Health Crisis Fund Expenditures.
K. Naturopathic Physicians Board of Medical Examiners – Report on Inspection and Evaluation Special Line Item Expenditures.
L. Department of Revenue – Report on Ladewig Expenditure Plan.
M. Arizona Department of Transportation – Report on Motor Vehicle Division Wait Times.

Mr. Stavneak said that there were a couple items of information. At the last meeting Representative Gray had asked for information on legal expenses for alternative fuels. That is on page 2 of the JLBC Staff memo entitled "Report on Recent Agency Submissions."

On page 3 there is information about the Governor's Emergency Fund and the Rodeo fire. Of the $4 million emergency fund the state has each year for general emergencies, $3 million of that has been committed to pull down the federal matching dollars. It is estimated that the entire state cost is $6 million, $3 million has yet to be identified as to where we get the matching funds for the Federal Funds for the fires. That number is still evolving and that is why the total has not been identified.

Also on page 5, there were some questions on the Health Crisis Fund during the last meeting with regard to the sexual abuse hotlines and the use of $300,000 from the Health Crisis Fund. JLBC Staff attempted to do some work on that issue but was not able to directly tie the $300,000 to a specific request from those abuse hotlines in terms of why they received that particular amount of money.

Under the Ladewig report, Department of Revenue now must not begin mailing the notices to the members until October 4. JLBC Staff originally thought that was going to occur in the month of October. Given the slow startup time we have only had to expend, at this point, $29,000 out of administrative funds for the Ladewig lawsuit.

Representative Knaperek noted that in light of the court's decision on the class action for alternative fuels, the Committee needs to look ahead to see what that could cost the state.

Without objection, the meeting adjourned at 12:30 p.m.

Respectfully submitted:

Cheryl Kestner, Secretary

Richard Stavneak, Director

Senator Ruth Solomon, Chairman

NOTE: A full tape recording of this meeting is available at the JLBC Staff Office, 1716 West Adams.

DATE: September 10, 2002

TO: Senator Ruth Solomon, Chairman
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director

FROM: Jason Hampton, Fiscal Analyst

SUBJECT: BOARD OF TECHNICAL REGISTRATION – CONSIDER APPROVAL OF TRANSFER OF APPROPRIATIONS

Request

Pursuant to A.R.S. § 35-173(E), the Arizona Board of Technical Registration (ABTR) requests permission to shift $38,000 from their Employee Related Expenditures (ERE) allocation into Personal Services.

TRANSFER FROM:		TRANSFER TO:	
Employee Related Expenditures	$38,000	Personal Services	$38,000

Recommendation

The JLBC Staff recommends that the Committee approve a shift of $35,400 from ABTR's allocation for ERE into Personal Services for FY 2003. In subsequent conversations between the JLBC Staff and the ABTR, it was agreed that the amount shifted should total $35,400.

Analysis

The FY 2003 General Appropriation Act appropriates ABTR funds as a Modified Lump Sum. As a result, the ABTR is unable to transfer monies between the Personal Services and ERE line items without Committee approval.

The recommended transfer is necessary due to a technical budgeting error by the JLBC Staff. An amount of $35,400 intended for Personal Services was instead added to the agency's ERE. The transfer will correct the situation.

RS/JH:ss

STATE OF ARIZONA

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DATE: September 12, 2002

TO: Senator Ruth Solomon, Chairman
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director

FROM: Timothy Sweeney, Fiscal Analyst

SUBJECT: ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM – REVIEW OF CAPITATION RATE CHANGES

Request

Pursuant to General Appropriation Act footnotes in both Acute and Long-Term Care, the Arizona Health Care Cost Containment System (AHCCCS) is required to report capitation and fee-for-service inflationary rate increases with a budgetary impact to the Committee for its review prior to implementation.

Recommendation

The Committee has at least 2 options regarding this item:

- First, the Committee may choose to favorably review these capitation rate changes. Based on actuarial analysis, capitation rate inflation has been set at an average of 4.2%. The current FY 2003 budget assumed the average inflation rate would be 5.2%. JLBC Staff estimates that these lower inflation rates will produce a savings of approximately $4.3 million in FY 2003. AHCCCS is concerned that rates below these levels will negatively affect next year's negotiations with the health plans for new contracts.
- The second option is to defer review until plans for addressing the state's FY 2003 General Fund shortfall become clearer. While the proposed rates are within budgeted levels, they provide a 4% inflation adjustment when the Governor is asking state agencies for plans to reduce spending by 10%. Additionally, the Committee may choose to reconsider these capitation rates in light of a potential $10 million to $20 million shortfall in the AHCCCS budget due to caseload growth. While the proposed 4.2% rate may generate $4.3 million to meet this shortfall, there is no current plan for meeting the remaining funding gap.

Analysis

Title XIX is a federal entitlement program and states are required to provide reimbursement rates that are actuarially sound. The changes proposed by AHCCCS are based on an actuarial analysis. An actuarial analysis is based on a variety of assumptions, which usually include some range of outcomes. AHCCCS contracts with an actuarial firm, which uses claims, expenditure, and encounter data to determine the actual cost of services and thereby, recommends increases or decreases in capitation and Fee-For-Service (FFS) rates. New capitation rates and the FFS rates reviewed today generally become effective on October 1 because that is the beginning of both the federal fiscal year (FFY) and the contract year with health plans.

As mentioned above, footnotes in the General Appropriation Act require AHCCCS to submit capitation and FFS rate changes that have a budgetary impact to the Committee for review, prior to the implementation of the increases.

Acute Care - Capitation

AHCCCS has two sets of capitation rates for Acute Care. The first set of rates covers the period prior to enrollment in a health plan. This is called “prior period coverage” (PPC) and includes some amount of retroactive coverage depending on eligibility. The second set of rates, referred to as “regular” capitation, take effect after enrollment in the health plan. The following table shows the rate changes for regular capitation only. Regular capitation rates were budgeted to increase by 5.2%, however, actuaries now report the expected increase as 4.2%. The rates shown reflect a weighted average of the rates paid per member per month to the health plans. In addition, the table shows the JLBC Staff estimate of the savings generated by the lower than budgeted inflation. These estimates are based on the enrollment projections used in developing the FY 2003 appropriation; these savings may be offset by higher than budgeted enrollment. (PPC rates are expected to increase by 4.4%, however, the adopted budget assumed that PPC rates would increase by 5.2%. The individual PPC rates are not included in the table below, but the savings associated with the lower inflation rates are included in the total General Fund savings estimate of $2,990,700.)

Monthly Regular Capitation Rates

Populations	Current Rate	Budgeted Rate	Proposed Rate	%
Age <1	$345.94	$360.47	$351.69	1.7%
Age 1 – 13	79.80	93.56	81.38	2.0%
Age 14 – 44 (Female only)	133.90	143.28	146.98	9.8%
Age 14 – 44 (Male only)	103.50	108.88	104.93	1.4%
Age 45+	287.24	302.23	287.56	0.1%
SSI with Medicare	195.47	205.34	197.24	0.9%
SSI without Medicare	386.55	403.31	409.78	6.0%
Family Planning	20.49	21.57	20.48	-0.0%
Deliveries	4894.87	5107.35	5041.48	3.0%
Average Rate Increase		5.2%		4.2%
Change in Cost from Budgeted to Proposed Rate			$(2,990,700)	General Fund
			$(9,127,900)	Total Funds

The average regular capitation rate increase across all populations equates to 4.2%, however, the budget provided for a 5.2% increase. As shown in the table, the majority of rates experienced increases. The general reasons cited by the agency and its actuaries for these increases include:

- Pharmacy cost increases ranging from 9-17%;
- Increased cesarean births;
- Increased dental utilization;
- Increased reimbursement for providers, particularly specialists; and
- The addition of a second newborn screening test, required by the Arizona Department of Health Services.

Based on enrollment projections used in developing the FY 2003 appropriation, the capitation rate change will result in a decrease of $(2,990,700) GF and $(9,127,900,) TF in the Acute Care Program, below budgeted levels. These savings, however, will likely be offset by higher than budgeted enrollment.

Proposition 204
In addition to the above changes, capitation rate inflation is also being adjusted for Proposition 204. The current budgeted amounts for Proposition 204 take into account an average inflation rate of 5.2% both for the regular capitation rates as well as the prior period rates. However, inflation for FY 2003 is now expected to be 4.2% for the regular rates, and 4.4% for the prior period rates.

The Executive's estimate was used for the FY 2003 appropriation since the Proposition 204 was new. As a result, the JLBC Staff does not have a detailed forecast for FY 2003, and is not able to calculate a precise savings estimate for the new rates. A rough estimate of the estimated savings due to the lower than expected inflation is $1.3 million GF. This savings may be offset by higher than expected enrollment growth.

Long-Term Care-Capitation
ALTCS services are provided through a system of 8 program contractors who competitively bid to provide long-term care services to eligible individuals. In all counties, except Maricopa, there is one program contractor that is responsible for coordinating and managing all of the clients long-term and acute care needs. In Maricopa County there are 3 program contractors, and therefore, Maricopa residents are given an enrollment choice.

The average capitation rate increase is 3.4%, however, the budget provided for a 3.5% increase. The agency and its actuaries cite the increased placement of members into home and community based settings (HCBS) as cost containing factors, which have enabled the negotiated increase to be less than the budgeted amount.

Based on enrollment projections used in developing the FY 2003 appropriation, the capitation rate change will result in a decrease of $(39,500) GF and $(685,800) TF in the ALTCS Program below budget levels. Final costs based on the new capitation rate may be higher or lower, depending upon the actual number of people that are eligible for services.

In total, the various changes to the Acute Care, Proposition 204 and ALTCS capitation rates are based on actuarial analysis, which is a requirement for participation in the Title XIX program. The General Appropriation Act footnotes were added to increase legislative awareness of these changes and their potential budget impacts. The budget impacts presented are based on the enrollment projections used in developing the FY 2003 appropriation, and therefore, the final FY 2003 cost may be higher or lower, depending upon the actual number of people that are eligible for services.

The table below shows the JLBC Staff estimates of the approximate General Fund savings generated by the lower than budgeted for inflation rates.

Funding for Inflation	
	Difference **<u>Increase/(Decrease)</u>**
Acute Capitation	$(2,990,700)
Proposition 204	$(1,289,500)
ALTCS Capitation	$(39,500)
Total General Fund Savings	**$(4,319,700)**

RS/TS:ck

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DATE: September 12, 2002

TO: Senator Ruth Solomon, Chairman
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director

FROM: Brad Regens, Senior Fiscal Analyst

SUBJECT: ARIZONA DEPARTMENT OF CORRECTIONS – REVIEW OF PRIVATE PRISON REQUEST FOR PROPOSAL

Request

The Arizona Department of Corrections (ADC) requests Committee review of a Request for Proposal (RFP) issued by the department for 1,400 privately-operated driving-under-the-influence (DUI) beds. Of the 1,400 beds, 400 are to be operational by March 2003 and the remaining 1,000 operational by October 2003. A.R.S. § 41-1609.01 requires that on publication any RFP issued by ADC pertaining to an adult incarceration contract be provided to the Committee for review. The Committee may suggest modifications to the RFP but does not review the bids or the final contract.

Recommendation

The Committee has at least 2 options regarding this item:

- The Committee may choose to favorably review the private prison RFP. A favorable review would allow the department to maintain its current schedule to award the contract at the end of October and provide the vendor one-year to build a facility. The new beds would assist the department in reducing its bed deficit, which is approximately 3,600. Even with a favorable review, the project could still be stopped prior to March. Canceling the project after awarding the contract, however, would probably create future problems with our private prison vendors. If the Committee does decide to give a favorable review, we would recommend that the department be directed to revise the RFP to change the opening date for the final 1,000 beds from October to November 2003 per the intent of the Legislature as indicated by a General Appropriation Act footnote.
- Given the current state budget shortfall, the Committee may choose to defer review of the RFP until plans for addressing either the FY 2003 or FY 2004 shortfall become clearer. Deferring the review would leave open a budget reduction option to save $2.5 million in Corrections Fund monies by not adding these new beds. Should the Committee provide a favorable review at a future meeting, the delay would push back the awarding of the contract and may not provide sufficient time for the first set of beds to be operational by March.

Analysis

The department's FY 2003 appropriation contains monies to increase the number of prison beds by 1,645 and maintain an average bed deficit of less than 2,500. Included as part of the department's appropriation, is $2.5 million from the Corrections Fund to enable the department to contract for 400 privately-operated DUI beds beginning in March 2003. In addition to the funding provided for the 400 new private beds, the FY 2003 General Appropriation Act includes a footnote directing ADC to solicit bids to contract for an additional 1,000 private beds beginning November 2003.

On August 13, 2002, the department released one RFP for the private operation of 400 new beds beginning March 2003 and an additional 1,000 new beds beginning October 2003. A.R.S. § 41-1609.01 requires that on publication any RFP issued by ADC pertaining to an adult incarceration contract be provided to the Committee for review. The department is charged with evaluating the private prison proposals to ensure they comply with statute, including the requirement that privately-operated prisons must provide comparable services at a reduced cost, and the Office of the Attorney General reviews the contract to confirm it follows statute.

The statutory requirements include, but are not limited to:

- The private prison vender must provide at least the same quality of services as the state at a lower cost or superior quality of service at the same cost.
- The department must conduct a biennial comparison of the services provided by the private contractor compared to services provided at state-operated facilities. The Committee has review responsibility for the service and cost comparison studies.
- The department retains the task of awarding earned release credits and calculating inmate release dates.
- The private vendor is liable for the costs of any emergency, public safety or security services provided to the private prison by the state or political subdivision.

<u>Option 1 – Favorable Review</u>
As mentioned above, if the Committee chooses to give a favorable review, the department could award the contract according to its current schedule. While the department can enter into a contract for new beds, ADC cannot bind the Legislature to provided future funding for the beds. As required by statute, the contract requires an annual appropriation by the Legislature and includes a clause that the State incurs no legal liability if monies are not appropriated and the contract is cancelled. This clause applies to both the first 400 beds to be opened in March and the last 1,000 beds to be opened October 2003. Even with a favorable review, the Legislature could ex-appropriate the monies before March and expend no monies or cancel the contract before FY 2004 begins and expend no monies after FY 2003.

While the State may legally end the contract without paying for the construction of the private beds, such a practice would most likely impact the State's relationship with the private prison community and negatively impact future attempts to contract for private beds.

If the Committee decides to give a favorable review, we would recommend that the Committee direct the department to revise the RFP to change the opening date for the final 1,000 beds from October to November 2003 per the intent of the Legislature.

Option 2 – Defer the RFP Review

Deferring the RFP review until budget reduction plans become clearer would provide the Legislature the opportunity to use the $2.5 million appropriated for the new beds for other purposes, such as offsetting General Fund expenditures within ADC. This option, however, would delay the awarding of a contract and may not provide sufficient time to a private vendor to construct a facility should the Legislature later decided to move forward with the new beds. Without the new beds, the department's bed deficit would continue to exceed 2,500.

The Table of Contents and Introduction for the RFP are attached. The entire RFP is available upon request.

RS/BR:ck
Attachment

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DATE: September 12, 2002

TO: Senator Ruth Solomon, Chairman
Members, Joint Legislative Budget Committee

FROM: Richard Stavneak, Director

SUBJECT: REPORT ON RECENT AGENCY SUBMISSIONS

Request

The JLBC has received a number of statutorily required reports during the past month. Each report is briefly described below.

Recommendation

The reports are for information only and no Committee action is required. We do not intend to discuss the reports at the JLBC meeting unless a member has a question. If any member knows in advance that they will have questions, we would appreciate knowing that before the meeting so as to ensure the relevant agency is available.

Reports

A. Office of Administrative Hearings - Report on Interagency Service Agreements.

Laws 2002, Chapter 327 (General Appropriation Act) requires the Office of Administrative Hearings (OAH) to enter into interagency service agreements to provide administrative hearing services. The agency is required to report to the Committee by September 1, 2002, the number of persons employed and the monies expended from these agreements. The office employs 20 Administrative Law Judges and 14 other staff members to provide administrative hearing services. The total Personal Services and Employee Related Expenditures for these employees is $2,074,400. These employees are funded from both the interagency service agreements and the General Fund. Of the total Personal Services and Employee Related Expenditures, $1,086,500 is related to these agreements, while $987,800 is related to the General Fund. In total, OAH expects to spend $1,290,600 on these agreements, including the above mentioned Personal Services and Employee Related Expenditures, as well as Travel and Other Operating Expenditures, in FY 2003.

(Continued)

B. Attorney General - Report on Model Court.

Laws 2001, Chapter 238 requires the Office of the Attorney General to submit a quarterly report summarizing program information related to Model Court. The agency's summary for the 4th Quarter of FY 2002 reports total expenditures at approximately $750,100. As of January 1, 1999 there were approximately 6,000 open dependency cases (cases open before statewide implementation of Model Court). By the end of the 4th Quarter of FY 2002, 742 of the original 6,000 remain. In the 4th Quarter of FY 2001, there were 1,175 backlog cases.

The total number of children (both new and existing) placed during the 4th Quarter was 559. Of this amount, 96 children represent backlog cases. A case is considered a "backlog" case if it was open before January 1, 1999, or before statewide implementation of Model Court. The number of cases does not correspond directly to the number of children (i.e. each case may involve more than one child). Of the 559 children placed, 80 were adopted by a relative, 140 were adopted by a non-relative, 83 were placed with a guardian related to the child, 51 were placed with a guardian not related to the child, and 205 were reunited with a parent. The agency reports a total of 6,992 children still awaiting placement. Of this amount, 1,525 children (or 742 cases) represent backlog cases. In the 4th Quarter of FY 2001, there were approximately 7500 children still awaiting placement. Of this amount, approximately 1,700 children (or 1,175 cases) represent cases open prior to January 1, 1999.

C. Attorney General - Report on Legal Expenses for Alternative Fuels.

At the JLBC meeting on July 17, the Committee requested information on the Office of the Attorney General's (AG) total legal expenses to date for the Alternative Fuels program. The AG provides legal and investigative services to the Arizona Department of Administration (ADOA) and the Department of Revenue that are needed to administer the Alternative Fuel Cost Reimbursement program.

At the JLBC meeting on August 22, the JLBC Staff provided expenditure detail for costs incurred by the Office of the Attorney General's Alternative Fuels Special Line Item. The information provided at the August meeting, however, did not include the amount spent for contracted outside legal services paid directly by ADOA Risk Management. In FY 2002, ADOA Risk Management paid the law firm of Gallagher & Kennedy a total of $1,074,500 for outside legal counsel. The following chart displays the direct Attorney General expenses along with the contracted outside legal costs.

	Attorney General Legal Services	**Contracted Legal Services**	**Total**
FY 2001	$43,200	$52,900	$96,100
FY 2002	58,200	1,074,500	1,132,700
FY 2003	82,400	1,000,000	1,082,400
FY 2004	82,400	1,500,000	1,582,400

D. Department of Corrections - Report on Inmate Utility Fees.

Pursuant to A.R.S. § 31-329, the Department of Corrections shall annually report on monies collected from inmates who use electrical appliances. The report shall also include information on the expenditure of any monies collected. Statute requires the department to charge a fee, not to exceed $2.00 per month, to inmates possessing at least one electrical appliance. For FY 2002, the department assessed a month utility fee of $1.00 and collected $152,930, which represents an 18.7% increase over FY 2001 ($128,800 collected). The department reports that the monies collected were utilized to reduce the General Fund cost for electrical consumption at state prison complexes.

E. Department of Economic Security - Report on Procurement Rules for the Division of Developmental Disabilities.

Pursuant to a General Appropriation Act footnote, the Department of Economic Security has submitted its report detailing the procurement rules it has adopted for the Division of Developmental Disabilities and its procedure for modifying those rules. The Department has completed draft rules regarding the expansion of services, has submitted it for informal public comment, and expects to have the final rule approved by May 2003.

F. Department of Emergency and Military Affairs - Report on Camp Navajo Fund

Pursuant to A.R.S. § 26-152, the Department of Emergency and Military Affairs (DEMA) is required to submit an annual report describing the activity in the Camp Navajo Fund by August 31 of each year. The Camp Navajo Fund was established for the operation, maintenance, capital improvements and personal services necessary for the national guard to operate a regional training site and storage facility at Bellemont, Arizona, near Flagstaff. The fund's revenues consist of monies received from federal and other government sources for storage of government commodities and services provided by the camp. DEMA reports that the Camp Navajo Fund received revenues of $8,313,000 and had expenditures of $9,956,000 in FY 2002. This left a fund balance of $5,113,000 at the end of the fiscal year.

G. Department of Environmental Quality - Report on Water Quality Assurance Revolving Fund for 4th Quarter for FY 2002.

Pursuant to a General Appropriation Act footnote, the Arizona Department of Environmental Quality is required to report quarterly to the JLBC on progress of activities in the Water Quality Assurance Revolving Fund (WQARF) Program, including emergency response, priority site remediation, cost recovery, revenues and expenditures and other WQARF-funded program activity.

The WQARF Program is similar to the federal Superfund program in that it is designed to monitor, contain, and remediate contaminated groundwater at specified sites. Program expenditures cover cleanups at contaminated sites, water monitoring, site investigations, emergency response activities, responsible party searches, litigation costs, and annual transfers to the Department of Water Resources, the Department of Health Services, and the Voluntary Remediation Fund.

WQARF is funded in part from an annual transfer of $15,000,000 from the Corporate Income Tax (CIT), as stipulated in A.R.S. § 49-282. In addition, WQARF generates other revenue from other license and registration fees. A.R.S. § 49-282 directs the State Treasurer to adjust the CIT transfer so that, when combined with certain other fee and license revenue, the WQARF program is guaranteed to receive $18,000,000 annually. Some types of revenue, including cost recovery collections and interest earnings, are not included in this calculation. Therefore, actual program revenues can exceed $18,000,000 in a year depending on how much is deposited from these other sources.

According to the report, the FY 2002 revenues totaled $10,341,000. Revenues for the year did not reach the guaranteed level of $18,000,000 due to legislation passed in the 2nd Special Session of the 45th Legislature which temporarily suspended the $15,000,000 transfer in favor of a $5,000,000 transfer for FY 2002.

When added to the prior year fund balance the new revenue brought total resources available for expenditure to $42,150,800. Based on the report, actual expenditures for the year were $28,679,000. Unexpended funds at the end of FY 2002 totaled $13,608,700.

The WQARF Program maintains a list of contaminated sites, called the Registry. According to the report, at the end of FY 2002 there were 33 sites on the WQARF Registry. The report includes information about cost recovery and clean up activities at both the site and program level of detail. The program posted the following cleanup results in FY 2002:

- 2.6 billion gallons of groundwater treated
- 46,753 pounds of volatile organic substances removed from the environment
- 5.3 million pounds of metal removed from the environment
- 8,790 tons of contaminated soil removed

The department recoups cleanup expenses from responsible parties through cost recovery efforts termed "cost recovery packages." In FY 2002 more cost recovery packages were closed than were opened, resulting in a net decrease in the number of outstanding cost recovery packages. However, the dollar value of the newly opened cost recovery packages exceeded that of the closed packages, resulting in an increase in the total dollar value of the outstanding cost recovery packages over the prior year.

	FY 2001	FY 2002
Beginning Cost Recovery Packages Outstanding / Dollar Amount	66 / $4,019,404	78 / $4,878,414
New Packages / Dollar Amount	84 / $1,644,270	10 / $1,731,163
Payments Received and Adjustments / Dollar Amount	72 / $785,259	25 / $488,706
Packages Outstanding / Dollar Amount	78 / $4,878,414	63 / $6,120,871

H. Department of Juvenile Corrections - Report on Restitution Fund.

Pursuant to A.R.S. § 41-2826(F), the Arizona Department of Juvenile Corrections (ADJC) is required to submit an annual report detailing all revenues and expenditures made from the department's Restitution Fund. The ADJC submitted its latest report on September 5.

Monies in the ADJC Restitution Fund are used to pay restitution and monetary assessments on behalf of youth working in the Committed Youth Work Program who are unable to pay restitution or monetary assessments ordered by the Juvenile Court. Working ADJC youth are compensated with monies received from the department's Work Incentive Pay Program. One-third of their earnings go into a Non-Restitution Account created for each youth. The other two-thirds of their earnings go towards Room and Board and a Restitution Fund Account created for each youth. Priority is given to the Restitution Fund Account, which is used to pay the county where the victim is domiciled. The county then distributes the funds to the victim. After restitution has been paid, the remaining money goes toward ADJC Room and Board. As of September 5, 2002, the ADJC reports that Restitution Fund revenues and expenditures for FY 2002 totaled $62,100.

I. Department of Revenue - Report on Ladewig Expenditure Plan.

In June 2002, the Committee approved $866,400 for the Department of Revenue's (DOR) 3-month interim expenditure plan for Ladewig administration costs for the first quarter of FY 2003, and asked DOR to provide a monthly report on their status and expenditures. DOR reports that as a result of positive settlement negotiations, the court delayed mailing the notice to 675,000 putative class members. Now, DOR must begin mailing the notice by October 4, must complete the mailing by November 15, and must begin publishing the notice October 18. Class members must opt out by November 29 or they will be included in the class. If a settlement is reached, this order will be modified or terminated. There is a judicial status meeting set for September 17.

DOR plans to use 4 existing FTE Positions to manage Ladewig. DOR has filled 3 of these FTE Positions (program administrator, budget officer, and executive staff assistant). DOR has not yet filled the clerk typist position. DOR has not yet determined when they will hire temporary personnel to staff phones, open and sort mail, and act as audit clerks. DOR reports expenditures of $31,800 for Ladewig in August 2002, making total expenditures of $61,200 for the first 2 months of FY 2003.

When the Committee approved $866,400 for DOR's first quarter interim expenditure plan, they also provided that any monies remaining unspent from the $866,400 at the end of the first quarter would be available for the remainder of DOR's full year expenditure plan. DOR has $805,200 of approved expenditure authority remaining beginning September 2002, due to the delay in implementation caused by settlement negotiations. The remaining $805,200 will enable DOR to continue funding this project for September 2002 and some month(s) beyond. When DOR needs more expenditure authority, they can submit their expenditure plan for Committee approval that includes an estimate and scope of the entire administrative requirement associated with disbursing payments and costs for this case, as required by Laws 2002, Chapter 321.

J. Arizona Department of Transportation - Report on Highway Maintenance Levels of Service.

The General Appropriation Act requires the Arizona Department of Transportation (ADOT) to report to the Committee on their current levels of service for 9 categories of highway maintenance by August 31, 2002. ADOT reported an overall statewide Highway Maintenance level of service of 85% for FY 2002, which means that 85% of roads statewide meet ADOT's minimum acceptable standards for Highway Maintenance. This was the same overall percentage as for FY 2001, with 4 measures improving (drainage, urban landscape, rural vegetation, and rest areas), 3 measures decreasing (pavement, roadside, and traffic safety), and 2 measures unchanged (shoulders, and snow and ice). Pavement declined 1 percentage point to 77% for no clearly discernable reason, roadside declined 3 percentage points due to increased urban litter, and traffic safety declined 4 percentage points due to obliterated striping from a large amount of oil flush coatings of road surfaces at the time of the survey in the Tucson district.

ADOT projects spending $600,000 to improve their level of service in FY 2003, including $575,000 to improve safety related measures (shoulders $200,000, roadside $100,000, and snow and ice $275,000), and the remaining $25,000 for urban landscape. ADOT reports that they are continuing to work on improving the quality and consistency of their data collection, and plans to investigate the possibility of tying highway maintenance funding levels to their levels of service.

K. Arizona Department of Transportation - Report on Tree Clearing Program.

At the July meeting of the Committee some members asked for further specific information regarding ADOT's Tree Clearing Program. ADOT's answers are as follows:

- ADOT had talked at the July meeting about providing 30 feet of clearance from the edge of the road. More specifically, ADOT now reports that it is their policy to have a clear zone of 32 feet from each edge of a roadway whenever possible. The desirable clear zone for any particular piece of highway varies with traffic design speed, traffic volume, slopes adjacent to the road, and other factors. ADOT derived 32 feet as an average figure, using the American Association of State Highway Transportation Officials' "Roadside Design Guide" and their own "ADOT Roadway Design Guidelines" for clear zones.

- ADOT reports that their level of service criteria is to have fewer than 6 trees or brush per mile within the clear zone that are, or have the potential to be, more than 4 inches in diameter. ADOT reports that 1,750 centerline miles have 6 or more trees or brush in the clear zone, out of 6,142 total centerline miles of statewide roadways.

- ADOT has provided a 15-page listing of the sections of roads, which fail their level of service criteria for tree clearing, and maps that show this information graphically. In general, these sections are distributed statewide outside of the Phoenix metropolitan area. Copies of ADOT's list and maps are available upon request.

- ADOT reports that tree clearing is a continuous process, which is constrained by items such as seasonal and weather factors, environmental requirements and time windows, and available resources. ADOT reports expenditures for tree clearing and vegetation thinning of $2,494,800 in FY 2000, $2,698,800 in FY 2001, and $2,203,200 in FY 2002.

RS:lm